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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Effects of terrorism on the enjoyment of human rights

Report of the Secretary-General

Summary

In its resolution 72/246, the General Assembly strongly condemned all terrorist acts as criminal and unjustifiable, and expressed grave concern about their detrimental effects on the enjoyment of all human rights. The present report on the implementation of that resolution highlights the importance of respecting the human rights of victims and fighting impunity for human rights abuses caused by acts of terrorism and for human rights violations in the context of countering terrorism.

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I. Introduction

1. In its resolution 72/246, the General Assembly reiterated its strong and unequivocal condemnation of all acts, methods and practices of terrorism and violent extremism as and when conducive to terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, while emphasizing that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group. The Assembly recognized that terrorism has a detrimental effect on the full enjoyment of political, civil, economic, social and cultural rights and fundamental freedoms, and reaffirmed its commitment to a balanced and integrated implementation of the four pillars of the Global Counter-Terrorism Strategy as adopted in its resolution 60/288 and at its fifth biennial review.[1]

II. Detrimental effect of terrorism on the full enjoyment of human rights and fundamental freedoms

2. Emphasizing the universality, indivisibility, interdependence and interrelatedness of all human rights, the General Assembly reiterated in its resolution 72/246 that all States have an obligation to promote, respect and protect all human rights and fundamental freedoms, to respect the rule of law and to implement their obligations under international human rights and humanitarian law, as applicable. The Assembly also recalled that the promotion and protection of human rights for all and the rule of law are essential to the fight against terrorism and that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but are complementary and mutually reinforcing. It further stressed that each State has a responsibility to protect individuals within its territory and subject to their jurisdiction from acts of terrorism, to take effective counter-terrorism measures and to investigate and prosecute those responsible for carrying out such acts, emphasizing the importance of ensuring that counter-terrorism laws, measures and practices are human rights-compliant.

A. Effects on rights to life, liberty and security of person

3. According to the figures presented in the 2017 Global Terrorism Index, the number of deaths from terrorist attacks in 2016 was 25,673 — a 22 per cent reduction from the number of deaths in 2014 — largely owing to a decrease in acts of terrorism in Afghanistan, Nigeria, Pakistan and the Syrian Arab Republic. At the same time, the Index notes that, in 2016, 106 countries experienced at least one death from acts of terrorism, which was more than in previous years.[2]

4. In its report dated 1 February 2018, the Independent International Commission of Inquiry on the Syrian Arab Republic reported that the battles to recapture Raqqah and Dayr al-Zawr came at a very high cost for civilians. In Raqqah, Islamic State in Iraq and the Levant (ISIL) used snipers and landmines to prevent people from escaping, while those who did not escape were forced to act as human shields.[3] In Dayr al-Zawr, civilians attempting to leave the area were initially asked to pay fines or were beaten, then used as human shields. Similarly, it was reported that ISIL had committed gross abuses of human rights in Mosul, including mass abductions of

[1] See General Assembly resolution 70/291.

[2] Institute for Economics and Peace, *Global Terrorism Index 2017: Measuring and Understanding the Impact of Terrorism* (2017). Available at http://visionofhumanity.org/app/uploads/2017/11/Global-Terrorism-Index-2017.pdf.

[3] See A/HRC/37/72, paras. 38, 48 and 53.

civilians, the use of thousands of civilians as human shields, the killing of civilians, the deliberate shelling of civilians and civilians' residences in what appeared to be a deliberate policy to punish civilians in reclaimed areas, and the indiscriminate targeting of civilians trying to flee areas under its control.[4] In Afghanistan in 2016, an overall 10 per cent increase in the number of civilian casualties resulting from suicide attacks was reported, mainly attributed to several large attacks in Kabul, such as the ISIL-claimed attack against a peaceful demonstration on 23 July, in which 85 civilians were killed and 413 injured.[5] Other armed groups, including the Taliban and Hizb-i Islami, have perpetrated severe human rights abuses, including extrajudicial killings and corporal punishment, such as flogging and stoning.[6]

5. It is precisely to protect the rights to life, liberty and security of person that States have a duty to take effective measures to prevent and counter terrorism. Yet, in responding to the threat of terrorism, some States have adopted measures that can also violate those rights. During the battle against ISIL in Raqqah, international coalition airstrikes continued on a daily basis, despite the widely reported use of human shields by ISIL in those areas. In Dayr al-Zawr, pro-Government forces used prohibited cluster bombs in civilian populated areas.[7] The total number of persons who fled Raqqah and Dayr al-Zawr during those military operations stands at 320,000. In northern Raqqah and Hasakah, the Syrian Democratic Forces reportedly interned 80,000 internally displaced persons, including women, children, the elderly, the infirm and disabled persons, in order to vet them for possible connections to ISIL. The apparent absence of a case-by-case evaluation in relation to every interned individual prior to detention may amount to their arbitrary detention, rendering it unlawful under applicable international human rights law owing to the de facto control of the Syrian Democratic Forces over the territory and persons interned in that territory.[8]

6. In other contexts, human rights treaty bodies have expressed concern at law enforcement officials reportedly engaging in the torture and ill-treatment of detainees while responding to alleged security threats,[9] as well as using excessive force, including lethal force, during special counter-terrorism[10] and related search operations.[11] They have also noted that national security- and conflict-related detainees continue to be most at risk of torture or ill-treatment for the purpose of extracting confessions.[12] In some States, counter-terrorism legislation delays access to counsel or to a medical doctor,[13] which erodes the legal safeguards against torture and can amount to incommunicado detention.[14] The Committee against Torture has expressed its grave concern over dispositions that individuals suspected or charged with crimes of "endangering State security" or "terrorism" can be placed under residential surveillance "at a designated location" for up to six months, which, if combined with the denial of access to legal counsel, could amount to incommunicado

[4] United Nations Assistance Mission for Iraq (UNAMI) and Office of the United Nations High Commissioner for Human Rights (OHCHR), "Report on the protection of civilians in the context of the Ninewa Operations and the retaking of Mosul City, 17 October 2016", www.uniraq.org/images/factsheets_reports/Mosul_report%2017Oct2016-10Jul201731%20October_2017.pdf.

[5] See A/HRC/34/41, paras. 11–12.

[6] See CAT/C/AFG/CO/2, para. 21.

[7] See A/HRC/37/72, paras. 49 and 56.

[8] Ibid., para. 59, and annex III, paras. 13 and 15.

[9] See CAT/C/TUR/CO/4, para. 11; and CCPR/C/MAR/CO/6, para. 23.

[10] See CCPR/C/KGZ/CO/2, para. 13.

[11] See CAT/C/FRA/CO/7, para. 12.

[12] See CAT/C/AFG/CO/2, para. 9.

[13] See CAT/C/FRA/CO/7, para. 10; CAT/C/CHN/CO/5, para. 12; and CAT/C/AFG/CO/2, para. 25.

[14] See CCPR/C/UZB/CO/4, para. 11; and CCPR/C/SUR/CO/3, para. 33.

detention in secret places, placing the detainee at a high risk of torture or ill-treatment.[15]

7. The prohibition of torture is absolute.[16] Moreover, prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.[17] Access to a lawyer is crucial as a means of preventing torture, as it contributes to a basic level of transparency and contact with the outside world. The absence of such access could leave persons deprived of their liberty completely at the mercy of the detaining authority and prone to abuse.[18]

8. In areas of Nigeria affected by Boko Haram, there has reportedly been an increase in the arbitrary arrest and detention of young men who are suspected by security forces of being members of the group.[19] In several States, counter-terrorism laws allow for long periods of administrative or pretrial detention, sometimes by the military or intelligence agencies, including without charges being brought or judicial oversight.[20] Some laws allow individuals suspected of having links to proscribed groups to be detained for up to a year without trial,[21] while other laws do not place a maximum limit on pretrial detention.[22] In one instance, individuals have been held for as long as 15 years without being indicted, and even those who have been charged have remained in detention without a verdict for as long as 14 years.[23] Irrespective of security-related derogations permitted by some legislation, the prohibition of arbitrary detention is absolute.[24] Judicial review of administrative detention must be exercised by an independent and impartial authority, which must have the power to release the individual and which should be granted within 48 hours, except in absolutely exceptional and justified circumstances.[25] Individuals need to be informed promptly of any charges against them, and the decision to keep a person in detention should be subject to periodic re-evaluation, otherwise it may become arbitrary.[26]

B. Effects on due process and fair trial rights

9. Areas controlled by terrorist groups have been characterized as demonstrating a complete disregard for due process. In its November 2014 report, the Commission of Inquiry noted that, in ISIL-controlled areas of the Syrian Arab Republic, the group had imposed strict social instructions which were brutally enforced through the so-called Al-Hisbah "morality police", with no room for mitigation or dissent.[27] Victims of ISIL punishments described being subjected to a system based on the principle of "guilty until proven innocent". The punishments for acts like smoking cigarettes or theft included beheadings, shootings, stoning, amputations or lashings, imposed during public events. Mutilated bodies were displayed publicly to warn of the

[15] See CAT/C/CHN/CO/5, para. 14.
[16] See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2 (2); and A/HRC/34/54, paras. 18–20.
[17] See General Assembly resolution 60/148, para. 11.
[18] See A/HRC/13/39/Add.5, para. 102.
[19] See A/HRC/30/67, paras. 60–62.
[20] See CAT/C/PAK/CO/1, para. 12; CCPR/C/POL/CO/7, para. 29; CAT/C/LKA/CO/5, para. 21; and CCPR/C/MAR/CO/6, para. 17.
[21] See CAT/C/PAK/CO/1, para. 12.
[22] See CCPR/C/POL/CO/7, para. 29.
[23] See CAT/C/LKA/CO/5, para. 21.
[24] See Human Rights Committee general comment No. 35 (2014) on liberty and security of person, para. 66.
[25] Ibid., para. 33.
[26] Ibid., para. 12.
[27] See A/HRC/27/CRP.3, paras. 20–21.

consequences of failure to submit to the group's authority.[28] In Iraq, ISIL-established sharia "courts" in Mosul "sentenced" people to cruel, inhuman and degrading treatment, such as stoning, amputation and executions, including of 13 teenage boys accused of watching a football match.[29]

10. In the context of countering terrorism, the importance of equality and non-discrimination in the administration of justice, of a fair and public hearing by an independent and impartial tribunal, and of the presumption of innocence, as well as other fundamental judicial guarantees, has been stressed.[30] Respect for the due process rights of individuals is critical to ensuring that counter-terrorism measures comply fully with the rule of law. Yet, either as a result of the practical application of the law or the lack thereof, individuals accused of acts of terrorism are often not granted the same due process guarantees and fair trial principles as those accused in non-terrorism cases, including limitations on the right to have access to a lawyer, such as permission from security investigators,[31] or the use of military courts to try civilians, given the lack of independence of military judges.[32]

11. In some countries, confessions obtained under duress continue to be admissible in counter-terrorism cases.[33] The ability to convict a suspect on the basis of a confession, without any further supporting evidence, is a key contributing element to the pervasive use of torture.[34] The prohibition of invoking as evidence any statement obtained under torture, as enshrined in article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is one of the most crucial safeguards against abuse in the criminal justice system. According to the Committee Against Torture, a complainant is only required to demonstrate that his or her allegations of torture are well-founded.[35] The failure to verify that a confession has not been obtained through torture, and the use of such in judicial proceedings despite the allegations of torture, amount to a violation of article 15 of the Convention.[36]

12. Trials that fail to conform to due process and fair trial rights are of particular concern in States where the death penalty can be applied, in particular when that sentence is mandatory. Several countries have adopted new laws providing for the death penalty for a number of crimes related to terrorist activities.[37] The imposition of a death sentence upon the conclusion of a trial in which due process and fair trial safeguards have not been respected constitutes a violation of the right to life.[38]

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[28] Ibid., paras. 32–33 and 36.

[29] See A/HRC/28/18, para. 49.

[30] See General Assembly resolution 72/180, twelfth preambular para., and para. 5 (f); and Human Rights Council resolution 35/34, para. 25.

[31] See CAT/C/CHN/CO/5, para. 12.

[32] See CAT/C/PAK/CO/1, para. 12.

[33] See CAT/C/LKA/CO/5, para. 31; CAT/C/PAK/CO/1, para. 12; and CCPR/C/MAR/CO/6, para. 23.

[34] See A/HRC/13/39/Add.5, para. 98; and A/71/298, paras. 96–100.

[35] See CAT/C/30/D/219/2002, para. 6.11. See also CAT/C/29/D/193/2001, para. 6.6.

[36] See CAT/C/53/D/514/2012, para. 8.7. See also African Commission on Human and Peoples' Rights, *Egyptian Initiative for Personal Rights and Interights v. Egypt*, communication No. 334/2006.

[37] See A/HRC/33/20, para. 16.

[38] See Human Rights Committee general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 59; A/HRC/39/19.

C. Effects on freedoms of expression, assembly and association

13. The Human Rights Council has expressed its grave concern that national security and counter-terrorism legislation has been misused to target human rights defenders in a manner contrary to international law.[39] In the name of countering terrorism, serious limitations have been placed on the rights to freedom of opinion, expression, religion or belief, peaceful assembly and association. Since 2001, more than 140 Governments have adopted or adapted counter-terrorism laws to meet new or perceived threats.[40] Some laws have been adopted quickly and without proper consultation.[41] Much of that legislation contains overly broad and vague definitions of terrorism,[42] and more recently of "extremism" or "violent extremism"[43] and "cyber-terrorism",[44] or terms such as "prejudicial acts",[45] "inciting social or class hatred" and "religious hatred or enmity",[46] which are susceptible to wide discretionary and abusive interpretations and can penalize the legitimate exercise of fundamental freedoms. The criminalization of acts that amount to "apology for terrorism", although similar to incitement to terrorism, constitutes an overly broad and indiscriminate range of expression that has raised concerns over racial and religious profiling.[47] The Committee on the Elimination of Racial Discrimination has warned against broad definitions of the term "extremist activity", which can be used arbitrarily to silence individuals, in particular those belonging to groups vulnerable to discrimination, such as ethnic minorities, indigenous peoples or non-citizens.[48]

14. Counter-terrorism legislation can also place serious limitations on the public reporting of acts of terrorism[49] and on the operation of civil society organizations, for example when they are classified as "foreign agents" under counter-extremism legislation.[50] The mere existence of such legislation, or the arrest, detention and prosecution of a few individuals, may not only stigmatize individuals as terrorists but also have a detrimental effect on the exercise of fundamental freedoms, including the right to freedom of expression and assembly.[51]

15. Counter-terrorism legislation with penal sanctions must never be used against individuals who exercise peacefully their right to freedoms of expression, assembly or association. The imperative of effectively countering terrorism cannot lawfully be misused as an excuse to quash public advocacy by peaceful critics, human rights activists or members of minority groups. Those with beliefs that are unpopular with

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[39] See Human Rights Council resolutions 25/18, 27/31, 32/31, and 34/5.

[40] See, for example, www.legifrance.gouv.fr/eli/loi/2017/10/30/INTX1716370L/jo/texte, and United Kingdom of Great Britain and Northern Ireland, "Counter-terrorism and border security bill 2018", 6 June 2018. Available at www.gov.uk/government/collections/counter-terrorism-and-border-security-bill-2018.

[41] See CCPR/C/NZL/CO/6, para. 13.

[42] See CCPR/C/KOR/CO/4, para. 20; and CCPR/C/UZB/CO/4, para. 11.

[43] See CERD/C/RUS/CO/23-24, para. 11; and CCPR/C/TKM/CO/2, para. 14.

[44] See CCPR/C/KOR/CO/4, para. 20.

[45] See CCPR/C/BGD/CO/1, para. 9.

[46] See CCPR/C/KAZ/CO/2, para. 13.

[47] OHCHR, "Preliminary findings of the visit: United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concludes visit to France", 23 May 2018. Available at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23128&LangID=E.

[48] See CERD/C/RUS/CO/23-24, para. 11.

[49] See CCPR/C/MAR/CO/6, para. 17.

[50] See CERD/C/RUS/CO/23-24, para. 11.

[51] Ibid. See also CCPR/C/MAR/CO/6, para. 17; CAT/C/CHN/CO/5, para. 36; CAT/C/TUR/CO/4, para. 43; CERD/C/ECU/CO/23-24, para. 20; CAT/C/JOR/CO/3, para. 29; CERD/C/EGY/CO/17-22, para. 29; CRC/C/ETH/CO/4-5, para. 35. See also A/HRC/37/51/Add.3, paras. 30–31.

the State have the right to communicate information and opinions and to participate in and contribute to the building of a just society, freely and without fear.

16. The application of the death penalty for overly broad and vaguely defined terrorism-related offences remains a serious concern, particularly where such acts do not meet the threshold of "most serious crimes". In his statement to the sixth World Congress against the Death Penalty,[52] the United Nations High Commissioner for Human Rights stated that some States criminalized the legitimate exercise of fundamental freedoms with overly vague counter-terrorism legislation. It is clear that the participation in peaceful protests or criticism of a Government — whether in private, online or in the media — are neither crimes nor terrorist acts. The threat or use of the death penalty in such cases is an egregious violation of human rights.[53]

D. Effects on the rights to privacy and freedom of movement and to a nationality

17. The General Assembly and the Human Rights Council have urged States to respect the right to privacy, including in the context of digital communication, and called upon States to take measures to ensure that interferences with or restrictions to that right are not arbitrary, are adequately regulated by law and are subject to effective oversight and appropriate redress, and to review their procedures, practices and legislation regarding the surveillance of communications, and their interception and the collection of personal data, including mass surveillance, interception and collection.[54]

18. There are still serious and continuing concerns about the proliferation of laws and surveillance regimes that allow for expansive digital surveillance in the name of countering terrorism, including: (a) laws that authorize separate and discriminatory protection regimes for nationals and non-nationals;[55] (b) laws that compel telecommunications service providers to retain data for long periods and that allow authorities to gain access to that data without judicial authorization; and (c) non-statutory national and international surveillance and interception programmes that allow for the unlimited and indiscriminate surveillance of communications and collection of metadata — sometimes akin to hacking techniques — that lack procedural safeguards, carried out by intelligence agencies or law-enforcement.[56] The Human Rights Committee was also concerned about reports that intelligence agencies were intercepting personal communications and employing hacking techniques without explicit statutory authorization or clearly defined safeguards from abuse. It was further concerned about allegations that companies based in one State party had been providing online surveillance equipment to Governments with records of serious human rights violations, and about the absence of legal safeguards or oversight mechanisms regarding the export of such equipment.[57] It is crucial to ensure that those practices are placed fully within the context of legality, that adequate procedural safeguards and oversight of interception and surveillance are in place, that the programmes comply fully with the principles of proportionality, necessity and

[52] OHCHR, "World Congress against the death penalty", public statement to Minister Brende and others. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20150&LangID=E.

[53] See A/71/332, para. 33.

[54] See General Assembly resolutions 72/180, para. 5 (i)–(j); 72/284, paras. 19–20; and 70/291, para. 19; and Human Rights Council resolution 35/34, para. 20.

[55] See A/HRC/34/61, para. 33.

[56] Ibid. See also CCPR/C/ITA/CO/6, para. 36; CCPR/C/POL/CO/7, para. 39; CCPR/C/DNK/CO/6, para. 2; CCPR/C/GBR/CO/7, para. 24; and CCPR/C/USA/CO/4, para. 24.

[57] See CCPR/C/ITA/CO/6, para. 36.

non-discrimination, and that the right to a remedy — which requires transparency — is made truly effective.[58]

19. To address the fact that terrorism is increasingly becoming a cross-border activity, and notably the risk caused by foreign fighters, a number of States have adopted measures aimed at preventing persons from travelling to States other than their States of residence or nationality for the purpose of engaging in terrorist acts. In its resolutions 2178 (2014) and 2396 (2017), the Security Council required States to take certain measures to prevent the travel of foreign terrorist fighters, while fully respecting international human rights obligations. Concerns have been expressed that some States have extended the power of police officers to seize and temporarily retain travel documents if there are reasonable grounds to suspect that a person intends to travel abroad to engage in terrorism-related activities, while others have prohibited individuals from travelling, unless they qualify for exemptions.[59] Many States are stripping or revoking the citizenship of those deemed to be foreign fighters, which could potentially render stateless the individuals concerned and their families, including children. Whenever such measures are taken, due process rights must be respected, as well as the right to family life and the best interests of the child.[60] Children born out of rapes by, forced marriages to or voluntary unions with foreign fighters may also find themselves in a legal limbo, either unable to prove their citizenship, or to obtain their parents' citizenship. Given that an officially recognized identity, substantiated by a birth certificate and other identity documents, is essential to realizing most fundamental rights, all births must be registered, and all means given to the parents to prove the citizenship of their children.[61]

20. Some States' attempts to deal with alleged terrorists crossing international borders have also led them to take measures that violate the rights of migrants and refugees. In some cases, individuals fleeing conflicts have seen their absolute right to non-refoulement violated, in the absence of individualized procedures to determine a risk of torture or other ill-treatment,[62] while other States have continued to rely on "deportation with assurances" that may not ensure that the individuals affected will not be subjected to torture or other ill-treatment.[63] In some cases, it is alleged that applications of refugees and asylum seekers have been denied or revoked on the grounds that they pose a threat to national security, without allowing for the applicant to challenge those decisions.[64]

21. The fundamental principle of non-refoulement prohibits the expulsion, return or extradition of persons to a State when there are substantial grounds to believe that they would face the risk of being tortured[65] or other such serious human rights violations.[66] It is the responsibility of the sending State to assess the general situation

[58] See A/72/316, para. 47; and A/HRC/34/61, para. 35.

[59] See CCPR/C/GBR/CO/7, para. 14; CCPR/C/AUS/CO/6, para. 15; and A/70/371, para. 34 (footnote 50).

[60] United Nations Counter-Terrorism Implementation Task Force, *Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters* (New York, OHCHR, 2018). Available at www.ohchr.org/EN/newyork/Documents/Human-Rights-Responses-to-Foreign-Fighters-web%20final.pdf.

[61] UNAMI and OHCHR, "Promotion and protection of rights of victims of sexual violence captured by ISIL/or in areas controlled by ISIL in Iraq" (Baghdad, 2017). Available at www.ohchr.org/Documents/Countries/IQ/UNAMIReport22Aug2017_EN.pdf, paras. 47–48.

[62] See CAT/C/JOR/CO/3, para. 13.

[63] See CCPR/C/GBR/CO/7, para. 19.

[64] See CAT/C/MKD/CO/3, para. 19.

[65] See A/HRC/13/39/Add.5, para. 238.

[66] European Court of Human Rights, *Case of Othman (Abu Qatada) v. the United Kingdom*, application No. 8139/09, Judgment of 9 May 2012; and CCPR/C/21/Rev.1/Add.13, para. 12.

in the receiving State and the risk facing the particular individual.[67] Even those individuals who do not qualify for or are excluded from refugee status or to whom an exception to the non-refoulement principle applies, pursuant to article 33 (2) of the Convention relating to the Status of Refugees, may still be covered by the prohibition of refoulement under international human rights law.[68] In that respect, the Committee against Torture recommends that national policies determining the applicability of the principle of non-refoulement obligations rely only on "diplomatic assurances" with regard to States that do not systematically violate the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and only after a thorough examination of the merits of each individual case. The Committee also recommends that the sending State party should establish and implement clear procedures for obtaining such assurances, with adequate judicial mechanisms for review and effective post-return monitoring arrangements.[69]

E. Effects on economic, social and cultural rights and the right to development

22. The impact of terrorism on economic, social and cultural rights and the right to development is significant. Terrorist acts seriously affect local and regional economies by destroying critical infrastructure. Terrorist and violent extremist groups create unrest, enhance existing insecurities and exploit development challenges, such as inequalities, poverty and poor governance. Furthermore, they exacerbate grievances and create a vicious cycle of decline that affects already marginalized groups. They also affect the work of United Nations development agencies and target its personnel.[70]

23. Terrorist and violent extremist groups directly attack human rights that are critical to the well-being and development of societies. As some of them consider the right to education a particular threat to the spread of their ideologies, they have prevented children, in particular girls, in their pursuit of education. For example, Boko Haram has targeted public and private schools that they perceived as providing a Western curriculum; it is estimated that, between 2014 and 2017, 1,500 schools were destroyed, with at least 1,280 casualties among teachers and students.[71] Many more children, in particular girls and women, have dropped out of school owing to the Boko Haram insurgency.[72] The right to health is also seriously undermined by terrorist groups and their direct interference with the provision of humanitarian assistance and their direct targeting of humanitarian personnel. Those challenges often overwhelm government resources and exacerbate pre-existing problems already affecting the population.[73] Furthermore, acts of terrorism have a negative impact on cultural life, including through attacks against artists and citizens attending cultural events as well as self-censorship and financial loss for artists and cultural industries.[74]

24. Governments face acute challenges in addressing the long-term economic implications of terrorism from reduced business activity, production and investment, in particular in small or less diversified economies or where tourism is a key economic sector.[75] While terrorism has a global impact, countries suffering from conflict

[67] See also CAT/C/53/D/492/2012; and CAT/C/53/D/473/2011.
[68] See A/71/384, para. 30.
[69] See CAT/C/USA/CO/2, para. 21.
[70] See A/70/674, paras. 16–17.
[71] See S/2017/304, para. 59. See also CRC/C/KEN/CO/3-5, para. 65 (b).
[72] See CEDAW/C/NGA/CO/7-8, para. 33 (a).
[73] See A/HRC/32/32/Add.2, para. 83.
[74] See A/HRC/34/30, para. 45.
[75] The Human Rights Council requested a report from the Advisory Committee on "the negative

experience the most costly economic impacts from terrorism, notably those in the Middle East and North Africa, sub-Saharan Africa and South Asia.[76]

25. Yet it is essential that, in countering terrorism, States fully respect all human rights of the individuals affected. Measures that stigmatize or alienate entire ethnic or religious groups can result in discrimination in access to employment or education.[77] In some countries, military action, armed insurgency and terrorist acts have created a security situation that hampers the delivery of humanitarian assistance and basic social services, with particularly detrimental effects for the enjoyment of human rights by women.[78]

26. Counter-terrorism measures that have primarily affected men — such as enforced disappearances, prolonged detention without trial, extraordinary rendition and forced deportations — have also had an effect on female family members, who bear the burden of harassment, social exclusion and economic hardship, and have undermined their enjoyment of economic, social and cultural rights, such as the right to adequate housing and the right to family life.[79] Seemingly gender-neutral measures — such as evictions and house demolitions used to target or collectively punish communities and other measures that have led to displacement — have deprived women of basic necessities, including adequate food, access to health services and education. Terrorism sanction regimes also have both direct and indirect impacts on the human rights of female family members, including serious economic hardship, acute levels of mental and physical distress and, in some cases, family separation.[80] Measures taken to counter the financing of terrorism, including material assistance provisions and regulations regarding transfers of remittances to areas where terrorist or violent extremist groups operate, have also had a serious impact on women and girls, particularly as they are often placed in positions of support for their families, providing food, clothes and care.[81]

F. Effects on equality and non-discrimination and specific impacts on the rights of women and girls and children

27. Terrorist and violent extremist groups aim at destroying the diverse fabric of communities, including through the systematic and intentional targeting of religious communities, women, children, political activists, journalists, human rights defenders and members of the lesbian, gay, bisexual, transgender and intersex community, who have been victims of abductions, torture and killings.[82]

28. In addition, it is of concern that, in response to terrorism, many States have adopted policies that, directly or indirectly, discriminate against entire groups and communities perceived as presenting a terrorism-related risk. In some cases, profiling has led to the arrest, detention, prosecution, extrajudicial killings and enforced disappearance of individuals simply because they belonged to certain racial, ethnic

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effects of terrorism on the enjoyment of all human rights and fundamental freedoms, with a particular focus on economic, social and cultural rights". See Human Rights Council resolution 34/8.

[76] Institute for Economics and Peace, *Global Terrorism Index* 2017.

[77] See CERD/C/TUR/CO/4-6, para. 29.

[78] See A/64/211, para. 25; A/HRC/34/30, para. 42.

[79] A/64/211, para. 30.

[80] Ibid., para. 40.

[81] Duke Law International Human Rights Clinic and Women Peacemakers Program, *Tightening the Purse Strings: What Countering Terrorism Financing Costs Gender Equality and Security* (2017). Available at https://law.duke.edu/sites/default/files/humanrights/tighteningpursestrings.pdf.

[82] See A/70/674, para. 19.

and religious groups.[83] The former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has reported on the systematic repression of a religious minority and expressed his concern at allegations of detention and prosecution in terrorism courts of peaceful protesters who had requested that the minority be granted greater rights. In another context, the Working Group of Experts on People of African Descent consistently heard complaints of racial profiling in police searches, arbitrary interference in the context of Government counter-terrorism measures and initiatives to clamp down on illegal migrants.[84] States should be particularly mindful of racist hate speech, violence and criminal acts against vulnerable communities, particularly in the aftermath of terrorist acts.[85]

29. In many regions, terrorist and violent extremist groups have deprived women and girls of their human rights, including through forced marriage, restrictions on education and participation in public life as well as sexual and gender-based violence.[86] Under ISIL rule, women and girls have been trafficked and enslaved,[87] confined to their houses, removed from public life and told what to wear and where they could work, thus exacerbating women's subordinate role, reinforcing patriarchal attitudes and demonstrating discriminatory treatment on the basis of gender.[88]

30. Sexual violence is employed as a tactic of terror by terrorist and violent extremist groups and is linked to their strategic objectives, ideology and funding. It is used to advance such tactical imperatives as recruitment, terrorizing populations into compliance, displacing communities from strategic areas, generating revenue through sex trafficking, torture to elicit intelligence, conversion and indoctrination through forced marriage, and to establish, alter or dissolve kinship ties that bind communities.[89]

31. Egregious forms of conflict-related sexual violence — for example, rape, sexual slavery, forced marriage, forced pregnancy and abortion, including as a form of religious and ethnic persecution — have been perpetrated by terrorist and violent extremist groups mainly in Iraq, Mali, Nigeria, Somalia and the Syrian Arab Republic.[90] The Commission of Inquiry considered that ISIL had committed the international crime of genocide against Yazidis, notably including the commission of systematic rape of women and girls as young as 9 years of age,[91] sexual violence, including slavery, enslavement,[92] and torture and inhuman and degrading treatment of women and girls.[93] Boko Haram has subjected women and girls to sexual slavery, sexual violence, forced marriages, forced pregnancies and forced conversions,[94] and it is estimated that at least 7,000 girls and women have suffered from sexual violence

[83] See CERD/C/TUR/CO/4-6, para. 29; CERD/C/KEN/CO/5-7, para. 29; and CERD/C/LKA/CO/10-17, para. 14.

[84] See A/HRC/30/56/Add.2, para. 95.

[85] See CERD/C/GBR/CO/21-23, para. 15; CAT/C/FRA/CO/7, para. 14.

[86] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council resolution 1325 (2015)*. Available at www.unwomen.org/~/media/files/un%20women/wps/highlights/unw-global-study-1325-2015.pdf, p. 222.

[87] See S/2016/949, para. 10.

[88] See A/HRC/27/CRP.3, paras. 48–51.

[89] See S/2015/203, para. 83.

[90] Ibid., para. 82.

[91] See A/HRC/32/CRP.2, available from www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A_HRC_32_CRP.2_en.pdf, paras. 114 and 122–123.

[92] Ibid., para. 128.

[93] Ibid., paras. 130–131.

[94] See A/HRC/30/67, para. 38.

since 2009, following abductions and during forced marriage.[95] In Somalia, women and girls in Al-Shabaab-controlled areas are at heightened risk of sexual violence,[96] with forced marriage, trafficking and sexual slavery reportedly perpetrated.[97] Internally displaced women and girls are particularly at risk of sexual and gender-based violence, as well as child marriage, forced marriage, trafficking in persons, forced prostitution and abduction by terrorist groups for use in suicide bombings and sexual slavery.[98]

32. Sexual violence remains underreported in contexts where gender inequality and harmful social norms prevail, owing to stigma, cultural and religious norms, risks of insecurity and fear of retaliation. That leaves survivors often unwilling to return to their communities for fear of "bringing dishonour", or rejected from their communities as a result of guilt by association with a member of a terrorist group or a fear that they have been radicalized. Survivors thus face a risk of double victimization, first by the action of the perpetrator, and second by the reaction of society. Shame and stigma are integral to the logic of sexual violence as a tactic of terrorism, as victims can be turned into outcasts, destroying family and kinship ties that hold communities together.[99] Measures to address ostracism and stigma are necessary.[100]

33. Furthermore, counter-terrorism measures by States have had gendered effects that remain unacknowledged and uncompensated. Women not suspected of terrorism-related offences have been unlawfully detained and ill-treated to gain information about male family members, to compel male terrorism suspects to provide information or confessions or to help resolve the disappearances of family members.[101] Women may also be caught up in counter-terrorism operations in ways that can include being killed, harassed, subjected to violence, intimidated by security forces[102] or displaced from their homes and exposed to additional risks of violence.[103] Broad definitions of offences that criminalize material support and association with terrorists, including for women who fail to report the activities of their husbands suspected of terrorism,[104] combined with an approach to intelligence-gathering based on the mapping of networks of contacts, mean that the family members of alleged terrorists, including wives, can be swept up in counter-terrorism operations without adequate safeguards for their human rights.[105]

34. Women need to be protected against harassment and acts amounting to collective punishments based on the suspicion of having cooperated with terrorist groups, such as the blanket arrest and detention of women and girls.[106] Women who are or were married to members of terrorist groups must not be automatically treated as accomplices, and women who are accused of supporting ISIL must be treated fairly and on the basis of establishing individual criminal responsibility.[107] Furthermore, a

[95] See S/2017/304, para. 54; and CEDAW/C/NGA/CO/7-8, para. 15.
[96] See S/2018/250, para. 61.
[97] Ibid., para. 62.
[98] See CEDAW/C/NER/CO/3-4, para. 10 (b).
[99] See S/2017/249, para. 10.
[100] UNICEF Nigeria and International Alert, *Bad Blood: Perceptions of Children Born of Conflict-Related Sexual Violence and Women and Girls Associated with Boko Haram in Northeast Nigeria — Research Summary* (Abuja and London, 2016). www.international-alert.org/sites/default/files/Nigeria_BadBlood_EN_2016.pdf.
[101] See A/64/211, paras. 30–31.
[102] See CEDAW/C/TUR/CO/7, paras. 36 and 36 (a).
[103] Ibid., para. 36 (b).
[104] See CCPR/C/IRQ/CO/5, para. 9.
[105] See A/64/211, para. 29.
[106] See CEDAW/C/NGA/CO/7-8, para. 15 (b).
[107] UNAMI and OHCHR, "Promotion and protection of rights of victims of sexual violence captured

gendered perspective should be integrated in strategies to prevent violent extremism and to counter terrorism.[108] Women should be included in peace negotiations, conflict prevention, peacebuilding and post-conflict reconstruction.[109]

35. Terrorism also negatively affects children. For example, 142 children were killed in an attack on a school in Pakistan in 2014.[110] Boko Haram has recruited at least 8,000 children since 2009.[111] They have been employed or used as human shields during military operations,[112] subjected to forceful religious conversions, forced marriage, rape, physical and psychological abuse, forced labour or to identify individuals who refused to join the group and unmarried women and girls.[113] Many have lost contact with their families and do not know if their parents are still alive, while others are orphaned.[114] Al-Shabaab has reportedly sent children as young as 9 years of age to the front lines.[115] In the Syrian Arab Republic, there are accounts of the recruitment and use of child soldiers by Jabhat Fatah al-Sham, where dire economic conditions and limited access to education drive children to be recruited for modest salaries to support their families.[116] In 2015, 274 cases of children recruited by ISIL in the Syrian Arab Republic were verified, as well as an increase in the use of children as foreign fighters, with 18 cases involving children as young as 7 years of age. Furthermore, child executioners have appeared in video footage. In Iraq, ISIL has conscripted or enlisted children between the ages of 8 and 18 years to participate in the armed conflict.[117] In two incidents in 2015, more than 1,000 children were reportedly abducted by ISIL from Mosul district.[118]

36. Children caught up in terrorist groups often become victims of serious violence. Survivors live with physical and emotional scars and stigmatization. It is therefore particularly concerning that, in many States, counter-terrorism measures have had serious impacts on the rights of children. It has been that some military responses against violent extremists raise challenges for the protection of children, including when State-allied militia and vigilante groups mobilize and use children, or where children are killed or maimed during military operations.[119] In all cases, the rules of engagement and military manuals should include the customary rule under international humanitarian law to avoid or minimize civilian casualties, taking into account that children may be living in areas under the control of armed groups or may be used on front lines following their abduction or recruitment.[120]

37. Under the Convention on the Rights of the Child, the best interests of the child must be respected at all times and detention should always be used as a last resort and for the shortest possible time.[121] The Committee on the Rights of the Child considers that a minimum age of criminal responsibility below the age of 12 years is not internationally acceptable.[122] Governments should ensure that detention is used only

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by ISIL/or in areas controlled by ISIL in Iraq"; and A/HRC/30/67, para. 81 (f).

[108] See CEDAW/C/CHE/CO/4-5, para. 16 (b).

[109] See CEDAW/C/NGA/CO/7-8, para. 15 (f); and CEDAW/C/CHE/CO/4-5, para. 16 (a).

[110] See CRC/C/PAK/CO/5, para. 22.

[111] See S/2017/304, para. 29.

[112] See A/HRC/30/67, para. 44; and S/2017/304, para. 70.

[113] See S/2017/304, paras. 32 and 70; and A/HRC/30/67, paras. 44–45.

[114] See A/HRC/30/67, para. 46.

[115] See S/2016/1098, paras. 18 and 22.

[116] See A/HRC/34/CRP.3, para. 74.

[117] See A/HRC/28/18, para. 44.

[118] See A/70/836-S/2016/360, paras. 65 and 149–150.

[119] Ibid., para. 14. See also CRC/C/KEN/CO/3-5, para. 65 (a).

[120] Ibid., para. 14.

[121] See in particular articles 2, 3, 6, 12 and 37 of the Convention.

[122] See Committee on the Rights of the Child general comment No. 10 (2007) on children's rights in juvenile justice, para. 32.

for child offenders who have been assessed as posing a real danger to others, and then only as a last resort, for the shortest necessary time and following judicial hearing, with greater resources invested in alternative family- and community-based rehabilitation and reintegration programmes.[123]

38. Some counter-terrorism measures fail to distinguish between juveniles and adults, or treat children associated with terrorist groups as security threats rather than as victims. In Nigeria, boys aged 17 are automatically considered to be "combatants" and children have been deprived of their liberty based on their parents' alleged association with Boko Haram, or used to identify other members of the terrorist group.[124] In Somalia, children have been reportedly captured and detained for their alleged association with Al-Shabaab during military and security operations, including in mass security sweeps or house searches, or detained on suspicion of having a family member who is associated with Al-Shabaab. The lack of habeas corpus and due process for children deprived of their liberty has been an acute concern, with children held for long periods without legal redress,[125] reportedly raped and ill-treated in detention[126] or sentenced to death by military courts for their association with Al-Shabaab.[127] Concern has been expressed about the detention of children allegedly under the same regime as adult detainees.[128] In another country, anti-terrorism legislation enables courts to try juveniles.[129] In some countries, individuals who were under 18 years of age when the crime was committed have been executed for acts covered by extremely broad counter-terrorism laws.

39. Children born out of sexual slavery[130] or of marriages with members of terrorist groups may be perceived as "children of the enemy", and may live with uncertain legal status, while others are removed from schools and physically confined for their protection.[131] The creation of a statutory duty for many public authorities to have due regard for the need to prevent individuals from being drawn into terrorism (the "prevent duty") has created an atmosphere of suspicion towards members of Muslim communities and affected the rights of children by permitting the collection, retention and sharing of information on individuals, particularly children, without their consent or the consent of their parents or legal guardians.[132]

40. The recruitment of children, regardless of the circumstances and methods employed, constitutes a violation of international law and leads to violence and exploitation. The recognition of child recruits as victims of crime is essential to giving them access to their rights as such, including the right to reparations and rehabilitation

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[123] Paulo Sérgio Pinheiro, *World Report on Violence against Children* (Geneva, United Nations). Available at www.unviolencestudy.org. United Nations Interregional Crime and Justice Research Institute, *Children and Counter-Terrorism* (Torino, Italy, 2016), available at www.unicri.it/in_focus/files/Children_counter_terrorism.pdf, which sheds light on the particular vulnerability of children and juveniles in the context of counter-terrorism. In 2016, the Institute launched a two-year research project on assessing the preconditions for developing a juvenile diversion pilot programme for potential foreign terrorist fighters and others at risk, to assess the legal frameworks on counter-terrorism and juvenile justice in five Member States.

[124] See S/2017/304, paras. 37–38 and 41.

[125] See S/2016/1098, para. 33.

[126] Ibid., para. 36.

[127] Ibid., para. 37. See also CRC/C/ARE/CO/2, para. 70.

[128] See CAT/C/AFG/CO/2, para. 17.

[129] See CCPR/C/PAK/CO/1, para. 21.

[130] See CEDAW/C/NGA/CO/7-8, para. 15 (c).

[131] See S/2015/203, para. 61.

[132] See CERD/C/GBR/CO/21-23, para. 18. See also CRC/C/GBR/CO/5, para. 21 (b) and art. 2 (2) of the Convention on the Rights of the Child.

measures.[133] Punitive approaches fail to take into account the rights of the child and have a negative impact on reintegration.[134]

III. Ensuring respect for the human rights of victims and accountability

41. The Human Rights Council, in its resolution 35/34, has stressed the importance of providing victims of terrorism with proper support and assistance while respecting accountability, truth and justice, in accordance with international law. In it, the Council called upon States to ensure that any person whose rights have been violated by measures to counter terrorism or violent extremism conducive to terrorism has access to justice, due process and an effective remedy, and that victims of human rights violations receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence. It stressed that effective, fair, humane, transparent and accountable justice systems are a fundamental basis of any counter-terrorism strategy.

42. In its resolution 2379 (2017), the Security Council requested me to establish an investigative team, headed by a special adviser, to support domestic efforts to hold ISIL accountable, by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by ISIL in Iraq. Pursuant to paragraph 4 of that resolution, the terms of reference for the operation of the investigation team that were acceptable to the Government of Iraq were submitted to the Council on 9 February 2018 and approved by it on 13 February 2018. I am taking the necessary steps, measures and arrangements for the speedy establishment and full functioning of the team, including the establishment of a trust fund to receive voluntary contributions from Member States, which will supplement the regular budget funding. On 30 May, I appointed the head of the investigative team.

43. Lessons can be learned from recent experience. Effective accountability requires the constructive engagement of the international community, which also needs to be the driving force to ensure that international humanitarian law and international human rights law, including the relevant principles, rules, standards and best practices, are included fully in any accountability process, in particular with regard to fair trial and due process. It is important to ensure that such suggested mechanisms conform with applicable United Nations regulations, rules, policies and standards. The imposition of the death penalty is increasingly regarded as being incompatible with the fundamental tenets of human rights, in particular human dignity and the right to life, and I therefore continue to recommend that States that continue to impose and implement death sentences establish a moratorium on executions with a view to abolishing the death penalty.[135]

44. To respect fully the rights of victims after a terrorist attack, States should systematically open a prompt, thorough, effective and independent criminal investigation on each terrorist act, even in situations where the perpetrator dies by suicide or was killed during the act, and regardless of whether the perpetrator has been identified. Furthermore, victims and their families must be kept fully informed of the progress of the investigation, and the process must allow for their views and

[133] See A/70/836-S/2016/360, para. 16. See also CAT/C/AFG/CO/2, para. 17; Human Rights Council resolution 35/34, para. 19; General Assembly resolution 72/284, para. 77; and General Assembly resolution 70/291, para. 18.

[134] Article 40 (1) of the Convention on the Rights of the Child. See also Human Rights Council resolution 31/30.

[135] See A/HRC/36/26, para. 53.

concerns to be presented and considered at appropriate stages of the investigation and the criminal proceeding, without prejudice to the accused.[136]

45. In Afghanistan in 2017, 170 people were killed on average every month by mines, explosive remnants of war and improvised explosive devices, making up nearly 10 per cent of all civilian casualties of conflict. The United Nations Mine Action Service provides technical advisory assistance to the Government's Directorate of Mine Action Coordination on this issue and is advocating for increased funding to support the immediate and long-term rehabilitation needs of victims of terrorism.

46. At the regional level, the European Court of Human Rights continued to uphold human rights and accountability in the counter-terrorism context. Following the establishment of victims' right to truth under article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (also known as the European Convention on Human Rights),[137] and findings that European States' complicity in extraordinary rendition programmes had violated the absolute prohibition of torture and ill treatment,[138] the Court issued two important judgments relating to countries that had hosted "black sites" in their territory. In both cases,[139] the Court found that, through their cooperation with extraordinary renditions of the applicants, the States had subjected the applicants to an extremely harsh detention regime, causing intense physical and mental suffering that amounted to inhuman treatment contrary to article 3 of the Convention. The cases are critical not only in establishing the responsibility of States for torture in countering terrorism, but also in ending the impunity that continues to surround extraordinary renditions.

47. Despite those positive developments, it is clear that much progress still needs to be made, as was noted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism following a recent country visit, who found that the rights and needs of victims had not been fully addressed and still required significant legal and policy attention.[140] The Human Rights Committee has expressed its concern about the limited progress in investigating serious human rights violations, including unlawful and extrajudicial killings, abductions, torture and ill-treatment, secret detention and enforced disappearance perpetrated by State agents during security and counter-terrorism operations.[141] The Special Rapporteur has also noted that, despite the high number of formal complaints of torture, not a single individual appeared to have been convicted for that serious crime.

48. The Security Council, in its resolution 2331 (2016), called upon Member States to treat victims of sexual violence by terrorist groups as victims of crime. With regard to sexual and gender-based violence, positive initiatives include the fund for

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[136] Laura Dolci, *A Victimless Crime? A Narrative on Victims of Terrorism to Build a Case for Support* (Oisterwijk, Netherlands, Wolf Legal Publishers, 2018).

[137] European Court of Human Rights, *Case of El-Masri v. the former Yugoslav Republic of Macedonia*, application No. 39630/09, Judgment of 13 December 2012.

[138] European Court of Human Rights, *Case of Al Nashiri v. Poland*, application no. 28761/11, Judgment of 24 July 2014, and *Case of Husayn (Abu Zubaydah) v. Poland*, application No. 7511/13, Judgment of 24 July 2014.

[139] European Court of Human Rights, *Case of Al Nashiri v. Romania*, application No. 33234/12, Judgment of 31 May 2018 and *Case of Husayn (Abu Zubaydah) v. Lithuania*, application No. 46454/11, Judgment of 31 May 2018.

[140] OHCHR, "Human rights and counter-terrorism: United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concludes visit to Belgium", 31 May 2018. Available at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23164&LangID=E.

[141] See CCPR/C/RUS/CO/7. See also CAT/C/TUR/CO/4, para. 13.

sponsoring emergency services, such as the provision of medical treatment and temporary accommodation for women survivors of life-threatening acts of violence, which was inaugurated on 31 January 2016 by the President of Afghanistan.[142] However, accountability for sexual and gender-based violence is still an outstanding issue in many States, as evidenced by the lack of independent mechanisms to investigate all allegations of gender-based violence and other rights violations against women and girls by security forces and terrorist groups.[143] In one country, most cases of sexual violence are handled according to a system of customary practices that focuses on the clan rather than the survivor and often results in double victimization for survivors, who may be forced to marry their assailant, while imposing no sanctions to deter future crimes.[144]

49. A human rights-based approach to victims necessarily includes ensuring accountability. The Human Rights Council has urged States to undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of breaches of their obligations under international law as a result of any measures taken or means employed to counter terrorism, and to ensure accountability for those responsible for violations that amount to crimes under national or international law.[145] States must ensure that action is taken so that violations and abuses are prevented and not repeated, to promptly, thoroughly, independently and impartially investigate allegations of such violations and abuses, to punish perpetrators and to ensure access to remedy and redress for victims. The establishment of 21 August as the International Day of Remembrance of and Tribute to the Victims of Terrorism underscores the commitment of the international community to honour and support the victims and survivors of terrorism and to promote and protect the full enjoyment of their human rights and fundamental freedoms.[146]

IV. Conclusions and recommendations

50. **Acts of terrorism have a grave impact on the enjoyment of civil, cultural, economic, political and social rights across the globe. Acts of terrorism destroy lives, family ties and the fabric of communities. They sow fear in individuals and communities, demolish livelihoods and whole economies. That is why States not only have a right, but also a duty to prevent and counter acts of terrorism, as part of their human rights obligation to protect the life, liberty and security of all individuals under their jurisdiction.**

51. **In accordance with the first and fourth pillars of the Global Counter-Terrorism Strategy, an approach based on human rights and the rule of law is the only way to effectively counter terrorism. Such an approach not only maintains the trust and support of societies which is critical to any counter-terrorism strategy, it also prevents narratives of victimization, which lead to marginalization and violent extremism, from taking hold. States must thus ensure that the measures they adopt to counter terrorism comply with, and are fully grounded in, international human rights law.**

52. **The rights of victims are central to any counter-terrorism effort. Ensuring accountability and fighting impunity for human rights abuses caused by acts of terrorism and for human rights violations caused by States' measures to counter terrorism is necessary to guarantee the rights of victims to the truth and their**

[142] See A/HRC/34/41, para. 43.
[143] See CEDAW/C/NER/CO/3-4, para. 10 (c).
[144] See S/2018/250, para. 61.
[145] See Human Rights Council resolution 34, para. 24.
[146] See General Assembly resolution 72/165, para. 1.

right to remedy. It is also a critical aspect of ensuring that violations and abuses are not repeated and thus key to preventing future acts of terrorism. A failure to address effectively and adequately those issues will provide fertile ground for those intent on resorting to terrorism, as narratives of victimization take hold and real or perceived grievances are exploited by terrorists to garner support among vulnerable and alienated populations.[147]

53. **The General Assembly and the Human Rights Council have repeatedly called upon States to continue to implement the Strategy and its four pillars in a balanced and integrated way. As my predecessor noted in the Plan of Action to Prevent Violent Extremism, the last decade has seen a strong emphasis on the implementation of measures under pillar II, while pillars I and IV, relating to the conditions conducive to terrorism and to human rights, respectively, have often been overlooked.**[148]

54. **The renewed United Nations counter-terrorism architecture must continue and deepen its cooperation with States and regional and national partners, as well as develop new partnerships, particularly with civil society, women, young people and victims, to implement fully and equally all aspects of the Strategy.**

55. **Failing to respect international human rights law in the fight against terror is not only against the letter and spirit of the Strategy, it runs against the Security Council directive to States to ensure that their efforts to combat terrorism are in accordance with the Charter of the United Nations and their obligations under international law, including international human rights law, international refugee law and international humanitarian law.**[149]

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[147] United Nations Development Programme (UNDP) Regional Bureau for Africa, *Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment* (New York, 2017). Available at http://journey-to-extremism.undp.org.

[148] See A/70/674, para. 7.

[149] See, for example, Security Council resolutions 2199 (2015), 2253 (2015), 2368 (2017), 2385 (2017) and 2396 (2017).